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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )

Review of the Pioneer's )  
Preference Rules )

ET Docket No. 93-266 ✓

To: The Commission

REPLY COMMENTS  
OF THE  
ASSOCIATION FOR PRIVATE CARRIER PAGING SECTION  
OF THE  
NATIONAL ASSOCIATION OF BUSINESS  
AND EDUCATIONAL RADIO, INC.

The Association for Private Carrier Paging Section of the National Association of Business and Educational Radio, Inc. ("APCP") by its attorneys, respectfully submits, pursuant to Section 1.415 of the Commission's Rules, 47 C.F.R. §1.415, its Reply Comments in the above-captioned matter.

I. BACKGROUND

NABER is a national, non-profit, trade association headquartered in Alexandria, Virginia, that represents the interests of large and small businesses that use land mobile radio communications as an important adjunct to the operation of their businesses and that hold thousands of license in the private land mobile radio services.

In 1989, the Association for Private Carrier Paging ("APCP") was established by Private Carrier Paging ("PCP") providers under the auspice of NABER. Since that time, the Association expanded its membership to over 200 companies. This group has been actively involved in a variety of Commission proceedings, including filing Comments in PR Docket No. 88-548 (Frequency Coordination) and PR

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Docket No. 89-552 (Allocation of 220 MHz). APCP has developed committees which have met with Commission officials on several occasions to discuss issues of importance to APCP, and APCP committees are currently exploring means by which paging systems can more efficiently share the scarce spectrum made available for private carrier paging.

In this proceeding, the Commission requests Comments as to whether its Pioneer's Preference program should be continued. In addition, the Commission proposes to grandfather the Pioneer's Preference previously awarded to Mobile Telecommunication Technologies Corporation ("MTEL").

## **II. REPLY COMMENTS**

In this proceeding, a number of parties have supported the Commission's initial conclusion and stated to the Commission that, in light of the Commission's recently granted authority to allocate spectrum via lottery, the Commission should abolish the Pioneer's Preference program. Some parties believe that the Commission should not grandfather MTEL's grant.

At NABER's recent APCP Council Meeting, there was much discussion of the merits, both pro and con, of the Commission's proposal. Based upon such discussions, NABER has decided not to take a position at this time on the Pioneer's Preference program (in light of the Commission's auction authority), or whether MTEL's Pioneer's Preference should be grandfathered. However, there was agreement amongst the membership, should the Pioneer's Preference be continued and the Commission finds that the proposal is truly

innovative (and not merely duplicative of the work being performed by others), that it is important that the Commission require the awardee to actually construct the system it has proposed. The Commission should not permit the Awardee to construct "less" than the system proposed, either in terms of spectrum efficiency or geographic scope. APCP also believes that construction extension should not be granted, except in the most extreme circumstances. Construction which does not meet the Preference Award should result in the revocation of any licenses issued pursuant to the award.

While APCP requests that the Commission mandate that the system construction meet the terms of the Award, the Commission should not discourage further innovation by the Awardee. In this regard, the Commission's processes take a considerable amount of time in the Pioneer's Preference and spectrum allocation areas. During this period, further advances with the root technology developed by the Awardee should not be discouraged. In other words, the Commission should encourage the Awardee to **exceed** its proposal in the actual construction. However, the Commission should not permit the Awardee to construct an entirely different technology than originally proposed, as this would not be accordance with the original purpose of the award.<sup>1</sup>

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<sup>1</sup>Alternatively, the Commission could require an Awardee which seeks authority to construct a system with different technology to pay to the U.S. Treasury the auction price paid for the same spectrum in the allocation proceeding.

### III. CONCLUSION

WHEREFORE, the Association for Private Carrier Paging Section of the National Association of Business and Educational Radio, Inc. respectfully requests that the Commission act in accordance with the views expressed herein.

Respectfully submitted,

**ASSOCIATION FOR PRIVATE  
CARRIER PAGING**

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